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<b>TO</b> Office of Petitions		<b>FAX NO.</b> 571-273-8300
<b>FIRM/COMPANY</b> U.S. Patent and Trademark Office		<b>VOICE NO.</b> 571-272-3282
<b>FROM</b> Anthony T. Smith, Paralegal	<b>VOICE NO.</b> 214.953.6713	<b>DATE</b> February 14, 2006
<b>RETURN TO</b> Candice Rockett	<b>FAX NO.</b> 214.661.4713	<b>PAGES (including cover)</b> 15

**MESSAGE**

In re Application of: Dale S. Howard, et al.  
Serial No.: 09/456,647  
Filed: December 8, 1999  
Title: Electronic Publication Distribution Method and System  
Attorney Docket No. 014208.1386 (35-95-010.1)

This facsimile cover sheet is accompanied by a letter, with enclosures.

**CERTIFICATE OF FACSIMILE TRANSMISSION**

I hereby certify that this cover sheet and the accompanying letter with enclosures are being transmitted by facsimile to the U.S. Patent and Trademark Office on the date shown below.

Signature: Anthony T. Smith  
Anthony T. Smith, ParalegalDate: Feb. 14, 2006**Notice of Confidentiality**

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**BILLING NO.** 014208.1386**ATTORNEY/EMPLOYEE NO.** 05098**CRITICAL DEADLINE, SEND BY** ASAP

DAL01:892900.1

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ATTORNEY DOCKET NO.  
014208.1386(35-95-010.1)

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PATENT  
09/456,647

FEB 14 2006

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Dale S. Howard, et al.  
Serial No.: 09/456,647  
Filing Date: December 8, 1999  
Appeal No.: 2002-2139  
Group No.: 3623  
Examiner: Romain Jeanty  
Title: **ELECTRONIC PUBLICATION DISTRIBUTION  
METHOD AND SYSTEM**

**VIA FACSIMILE:**

571-273-8300

Mail Stop: Petitions  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Dear Sir:

**NON-FEE PETITION UNDER 37 C.F.R. § 1.181 TO WITHDRAW  
HOLDING OF ABANDONMENT AND RE-MAIL NOTICE OF ALLOWANCE**

This petition is filed in response to notification by the U.S. Patent and Trademark Office that the above-referenced patent application has been abandoned for failure to file a timely and proper reply to the Notice of Allowance and Issue Fee Due, which according to the Private PAIR System, was mailed August 17, 2005 with a three month period for reply. This Petition under 37 C.F.R. § 1.181 is to request that the holding of abandonment be withdrawn. As indicated in the attached statement of facts, Applicants never received the Notice of Allowance, and therefore, did not respond by the due date of November 17, 2005. Accordingly, the holding of abandonment is improper pursuant to M.P.E.P. § 711.03(c)II. The required showing to establish nonreceipt pursuant to M.P.E.P. § 711.03(c)II is provided in the following documents:

1. Counsel's Statement of Facts in Support of Petition to Withdraw Holding of Abandonment.

DAL01:892858.1

ATTORNEY DOCKET NO.  
014208.1386(35-95-010,1)

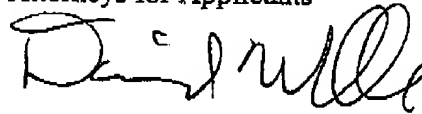
PATENT  
09/456,647

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2. Copy of Notice of Abandonment (**NOT RECEIVED BY APPLICANTS**). Though Applicants did not receive a Notice of Abandonment from the Patent and Trademark Office, Applicants believe the application to be abandoned by law since issue fee due by November 17, 2005 was not paid.
3. Copy of the File History Wrapper for Serial No. 09/456,647.
4. Copy of the docket record where the nonreceived Notice of Allowance would have been entered had it been received and docketed.

As the abandonment of this case was through no fault of Applicants, it is respectfully requested that a new Notice of Allowance be mailed and the date for response to be three months from the mail date of the new Notice of Allowance, pursuant to M.P.E.P. § 711.03(c)II. It is not believed that any fees are due. However, if it is determined that a petition fee or any additional fees are due, please charge these fees to Baker Botts L.L.P. Deposit Account No. 02-0384.

Respectfully submitted,  
BAKER BOTTS L.L.P.  
Attorneys for Applicants



David G. Wille  
Reg. No. 38,363

Date: 2/14/06

CORRESPONDENCE ADDRESS:  
CUSTOMER NO. 35005

**TAB 1**

Attorney's Docket:  
014208.1386(35-95-010.1)

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PATENT  
09/456,647

1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Dale S. Howard, et al.  
Serial No.: 09/456,647  
Filing Date: December 8, 1999  
Appeal No.: 2002-2139  
Group No.: 3623  
Examiner: Romain Jeanty  
Title: **ELECTRONIC PUBLICATION DISTRIBUTION  
METHOD AND SYSTEM**

**VIA FACSIMILE:**  
571-273-8300

**Mail Stop: Petition**  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Dear Sir:

**COUNSEL'S STATEMENT OF FACTS IN SUPPORT OF PETITION  
TO WITHDRAW HOLDING OF ABANDONMENT**

I am a patent attorney employed with Baker Botts L.L.P. I am listed as an attorney of record for the above-identified pending U.S. patent application entitled *Electronic Publication Distribution Method and System* filed on December 8, 1999, Application No. 09/456,647. My residence is Plano, Texas (a suburb of Dallas, Texas), and my place of employment is Dallas, Texas, and were so at all times relevant to the Statement of Facts. The following facts relate to the subject application:

DAL01:892896.1

Attorney's Docket:  
014208.1386(35-95-010.1)

PATENT  
09/456,647

2

1. All mail from the PTO is received in a Baker Botts mailroom and routed to the IP mail clerk. She opens and date-stamps all mail, and forwards notices of allowance received from the PTO to the paralegal assigned to the case. She does not record a log of such received mail, and therefore no such log is provided pursuant to MPEP § 711.03(c)II.

2. It is then the responsibility of the paralegal to docket notices of allowance received from the PTO. When a Notice of Allowance is received, the response due date is docketed along with any other papers due. A letter to the client is then prepared, and the file is forwarded to the attorney of record for review and authorization to pay the issue fee.

3. According to the file history wrapper (Tab 3) for this application, the Notice of Allowance has not been docketed, and there is no due date for the payment of the Issue Fee. Also attached is a copy of the docket record where the nonreceived Notice of Allowance would have been entered had it been received and docketed (Tab 4). These documents indicate that the Notice of Allowance was not received from the PTO.

4. As an attorney of record for the above-identified pending U.S. patent application, I attest that the Notice of Allowance was not received from the PTO. Further, I attest that I have performed a search of the file jacket and all of its contents. The results of the search revealed that the Notice of Allowance was not in the file jacket. This further indicates that the Notice of Allowance was not received from the PTO.

I hereby declare that all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application for any patent issuing thereon.



David G. Wille

Date: 2/14/06  
Baker Botts L.L.P.  
2001 Ross Avenue  
Dallas, Texas 75201-2980  
(214) 953-6595

DAL01:892896.1

**TAB 2**

**COPY OF NOTICE OF ABANDONMENT NOT RECEIVED BY  
APPLICANTS**

**TAB 3**



**Country Application**

Monday, February 13, 2006

Page: 1

Client Matter Number: 014208.1386

Country: US

SubCase:

Client: ELECTRONIC DATA SYSTEMS CORPO United States of America

Client Reference No: 35-95-010.1

Case Type: CON

Resp. Office: DL

Application Status: Appealed

Status Date:

Application Number: 09/456647

Filing Date: 08-Dec-1999

Publication Number:

Publication Date:

Patent Number:

Issue Date:

Parent/PCT Number:

Parent/PCT Date : 01-Jul-1996

Parent Issue Number:

Parent Issue Date :

Tax Schedule: LE

Expiration Date:

Confirmation #:

Patent Term Adjustment: 0

Agent:

Agent Reference #:

PTO Customer Number:

Priority Number: 08/673986

Historical Family No.:

New Family Number:

Matter:

Claims: 2

Annuity Client?: No

Tax Start Date:

Remarks: ASSIGNMENT - 8072/0925-0928; ASSIGNMENT Date - 01-Jul-1996

Appeal No. 2002-2139

**Country Application**

Monday, February 13, 2006

Page: 2

**List Of Actions**

Action(s) Due	Due Date		Action Taken
Application Mailed	08-Dec-1999	Due Date	08-Dec-1999
Associate Power of Atty Filed	08-Dec-1999	Due Date	08-Dec-1999
IDS Filed	08-Dec-1999	Due Date	08-Dec-1999
Preliminary Amendment	08-Dec-1999	Due Date	08-Dec-1999
Rejection Mailed	19-Sep-2000	Due Date	19-Sep-2000
Associate Power of Atty Filed	16-Nov-2000	Due Date	16-Nov-2000
3 Month Due Date	19-Dec-2000	Due Date	16-Nov-2000
Final Rejection	12-Feb-2001	Due Date	12-Feb-2001
Advisory Action	23-Mar-2001	Due Date	23-Mar-2001
Amendment Filed	09-Apr-2001	Due Date	09-Apr-2001
2 Month Amendment Due Date	12-Apr-2001	Due Date	27-Feb-2001
Change of Corresp. Address	12-Apr-2001	Due Date	27-Feb-2001
Advisory Action	07-May-2001	Due Date	07-May-2001
Notice of Appeal Filed	14-May-2001	Due Date	14-May-2001
1 Month Reminder/Appeal Brief	14-Jun-2001	Reminder	02-Jul-2001
2 Month Appeal Brief Deadline	14-Jul-2001	Final	02-Jul-2001
Examiner's Answer	02-Oct-2001	Due Date	02-Oct-2001
4 Mo. Response Status Check moved to 7/24/02 per TMS 3/21/2002. CAD			
Reply Brief One Month Reminder	02-Nov-2001	Reminder	15-Nov-2001
4 Mo. Response Status Check moved to 7/24/02 per TMS 3/21/2002. CAD			
US-Appeal Status Check	02-Nov-2001	Due Date	02-Oct-2001
Reply Brief	02-Dec-2001	Due Date	15-Nov-2001
4 Mo. Response Status Check moved to 7/24/02 per TMS 3/21/2002. CAD			
US-USPTO Communication	24-Jan-2002	Due Date	24-Jan-2002
Confirmation of Receipt of Reply Brief filed 1/15/2002. Case sent to the Board of Appeals for decision on the appeal. CAD			

**Country Application**

Monday, February 13, 2006

Page: 3

Request for Status Filed	12-Jul-2002	Due Date	12-Jul-2002
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Per PTO phone call today (July 12, 2002), this case has now been sent to the Board of Appeals for consideration. TJS/CAD

Re USPTO 8/29/02 this case has been assigned Appeal No. 2002-2139. CAD

Request for Status moved forward per TMS. CAD 1/20/2003

Request for Status Due	24-Jul-2002	Due Date	12-Jul-2002
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Last PTO communication was mailed January 24, 2002. CAD

Order re	14-Aug-2002	Due Date	14-Aug-2002
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Board of Appeals ordered case back to Group to enter the filing of the Appeal Brief and to charge EDS Deposit Account for the fees as instructed by our cover letter filing the Brief. CAD

Follow Up Request for Status	12-May-2003	Due Date	10-Jun-2003
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Per PTO phone call today (July 12, 2002), this case has now been sent to the Board of Appeals for consideration. TJS/CAD

Re USPTO 8/29/02 this case has been assigned Appeal No. 2002-2139. CAD

Request for Status moved forward per TMS. CAD 1/20/2003

Request for Status Filed	10-Jun-2003	Due Date	10-Jun-2003
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Request for Status Filed	15-Jan-2004	Due Date	15-Jan-2004
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PTO called DGW March 29, 2004 to tell us that the case is in line for decision on appeal, but no decision has been rendered as of today. CAD

Affirmed in Part Only	28-May-2004	Due Date	28-May-2004
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Client elected not to go forward with amendment or rehearing. (ats)

IDS Filed	27-Aug-2004	Due Date	27-Aug-2004
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Information Dis Follow Up Date	27-Feb-2006	Due Date	
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Created By: CDONAHUE

User ID: CDONAHUE

Date Created: 05-Oct-2000

Last Update: 09-Sep-2002

**TAB 4**

## U.S. Docket Report

Due Date	Indicator	Action Type/ Action Due	File Number/ Country Name	Application No./ Filing Date	Title	Status/ Client Name
Responsible Person: ASMITH3						
8/1/2005		US-Req. Correct Filing Receipt	073226.0118	10/478337	Pellet-Type Foams of Non-crosslinked Polypropylene Resin Having Lower Molding Point and Process and Device for Producing the Same and Molded Foams Therefrom	Published Hanol Law Offices
Remarks: Correct no. of total claims and no. of independent claims. (ats)						
8/1/2005		US-Change of Corresp. Address	017109.0487	08/992238	Resuscitator Device with Self-Closing Valve	Granted MICROTEK MEDICAL, INC.
Remarks: for Microtek's Signature since we never had POA in case. Form prepared and emailed to Ms. Jolly (Microtek) for signature on 7/14/05. (ats)						
8/1/2005		US-Change of Corresp. Address	017109.0488	08/870934	Fastening Arrangement for a Limb Support Device	Granted MICROTEK MEDICAL, INC.
Remarks: for Microtek's Signature since BB never had POA in the case. Form prepared and emailed to Ms. Jolly (Microtek) for signature on 7/14/05. (ats)						
8/26/2005		US-Proofread Issued Patent	019843.0230	10/410960	Method and System for Creating and Managing Engineered Time Standards	Granted LOCKHEED MARTIN CORPORATION
Remarks: Claims Only. (ats)						
10/1/2005		US-Fee Address Form Due	017109.0540	08/963100	Outdoor Electric Personal Heating System	Granted MICROTEK MEDICAL, INC.
Remarks: Prepared for client on 2/10/2006.						
10/1/2005		US-Fee Address Form Due	017109.0541	09/449405	Drape for a Surgical Microscope with Anti-Halation Window	Granted MICROTEK MEDICAL, INC.
Remarks: Prepared for client on 2/10/2006.						
10/7/2005		US-Req. Correct Filing Receipt	075635.0119	10/833699	System and Method for Predicting Human Posture Using a Rule-Based Sequential Approach	Pending UGS Corp.
Remarks:						
10/14/2005		US-Request for Consideration	017109.0378	10/655495	Surgical Drapes Having a Fluid Collection Pouch with an Inflatable Rim	Published MICROTEK MEDICAL, INC.
Remarks: For IDS 2/8/2005. (ats)						
10/26/2005		US-Proofread Issued Patent	069078.0115	10/373448	High Precision Mirror, and a Method of Making It	Granted ELCAN - Texas Optical Technologies
Remarks:						

Monday, February 13, 2006

## U.S. Docket Report

Page 2 of 3

Fax: 2149536503

Feb 14 2006 11:50

P. 14

Due Date	Indicator	Action Type/ Action Due	File Number/ Country Name	Application No./ Filing Date	Title	Status/ Client Name
Responsible Person: ASMITHS						
10/26/2005	Due Date	US-Proofread Issued Patent	069078.0114	10/405607	Method and Apparatus for Separating or Combining Optical Signals Using a Dispersive Element	Granted
Remarks:						
10/29/2005	Due Date	US-Notice of Abandonment	014208.1183	08/920433	Method and System of Providing Access Privileges to Records of Members of a Community	Appealed
		Follow Up Pat. To Revive Filed	US	8/29/1997		ELECTRONIC DATA SYSTEMS CORPORATION
Remarks: Per PTO, case was abandoned for failure to pay issue fee. BB never received Notice of Allowance. Petition to Withdraw Holding of Abandonment and Counsel's Statement of Facts to be filed by DGM. (ats)						
11/4/2005	Due Date	US-Allowance	074263.0221	10/896387	Hydrogen Fusion Delay Barrier for Downhole Optical Cables	Allowed
		Issue Fee Follow Up	US	7/22/2004		HALLIBURTON ENERGY SERVICES, INC.
Remarks: Issue Fee paid by client. (ats)						
11/26/2005	Due Date	US-Proofread Issued Patent	019843.0207	08/984149	Notched Blade Seal for High Performance Aircraft	Granted
		Proofread Issued Patent	US	9/25/2001		LOCKHEED MARTIN CORPORATION
Remarks: Claims only.						
12/7/2005	Due Date	Re-record Assignment	057575.0105	11/088114	Internet-Enabled Conferencing System and Method Accommodating PSTN and IP Traffic	Allowed
		Re-record Assig Follow Up Date	US	4/4/2005		EMEETING.NET, INC.
Remarks:						
12/10/2005	Due Date	US-Allowance	068796.0118	10/655903	Method and System for Processing Positioning Signals in a Stand-Alone Mode	Allowed
		Issue Fee Follow Up	US	9/1/2003		Fast Location.Net, LLC
Remarks:						
12/16/2005	Reminder	US-Allowance	017708.0150	10/338484	Anti-Inflammatory Humate Compositions and Method of Use Thereof	Allowed
		Fee Due in 2 Months	US	1/3/2003		EARTHGREEN PRODUCTS INC.
Remarks:						
12/20/2005	Due Date	6 Mo. Reminders	070050.2816	60/692578	Interactive Diagnostic Display	Pending
		6 mo. Foreign Filing Reminder	US	6/20/2005		COLUMBIA UNIVERSITY
Remarks:						
12/20/2005	Due Date	6 Mo. Reminders	070050.2816	60/692678	Interactive Diagnostic Display	Pending
		6 mo. U.S. Filing Reminder	US	6/20/2005		COLUMBIA UNIVERSITY
Remarks:						

Monday, February 13, 2006

## U.S. Docket Report

Page 3 of 3

Fax: 2149536503

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P. 15

Due Date	Indicator	Action Type/ Action Due	File Number/ Country Name	Application No./ Filing Date	Title	Status/ Client Name
Responsible Person: ASMTTH3						
12/20/2005	Due Date	6 Mo. Reminders	075234.0181	60/692178	(Cantor Market Data) Enhanced System and Method for Managing Financial Market Information	Pending Cantor Index
Remarks:						
12/20/2005	Due Date	6 Mo. Reminders	075234.0181	60/692178	(Cantor Market Data) Enhanced System and Method for Managing Financial Market Information	Pending Cantor Index
Remarks:						
12/22/2005	Reminder	US-Allowance	076310.0103	10/041875	Railway Car Coupler Knuckle Having Improved Bearing Surface	Allowed McConway & Torley Corporation
Remarks:						
12/28/2005	Due Date	6 Mo. Reminders	076553.0105	60/694894	A System and Method for Coupling Broadband Communications Signals to a Power Line	Pending INTERNATIONAL BROADBAND ELECTRIC COMMUNICATIONS, I
Remarks:						
12/28/2005	Due Date	6 Mo. Reminders	076553.0105	60/694894	A System and Method for Coupling Broadband Communications Signals to a Power Line	Pending INTERNATIONAL BROADBAND ELECTRIC COMMUNICATIONS, I
Remarks:						
12/30/2005	Reminder	US-Allowance	069547.0114 1	10/193978	(GameAccount) System and Method for Generating Statistics for a User of a Gaming Application	Allowed eSpeed, Inc.
Remarks:						
		Fee Due in 2 Months	US	7/12/2002		
Remarks:						

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